AS TO THE ADMISSIBILITY OF

Application No. 24582/94
by Peter Mowbray ELLIOTT
against the United Kingdom

The European Commission of Human Rights (First Chamber) sitting in private on 9 April 1997, the following members being present:

Mrs. J. LIDDY, President
MM. M.P. PELLONPÄÄ
E. BUSUTTIL
A. WEITZEL
C.L. ROZAKIS
L. LOUCAIDES
B. MARXER
B. CONFORTI
I. BÉKÉS
G. RESS
A. PERENIC
C. BÎRSAN
K. HERNDL
M. VILA AMIGÓ
Mrs. M. HION
Mr. R. NICOLINI

Mrs. M.F. BUQUICCHIO, Secretary to the Chamber

Having regard to Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms;

Having regard to the application introduced on 23 June 1994 by Peter Mowbray Elliott against the United Kingdom and registered on 11 July 1994 under file No. 24582/94;

Having regard to the reports provided for in Rule 47 of the Rules of Procedure of the Commission and the respondent Government's indication that they have no observations on the admissibility of the applicant's complaints;

Having deliberated;

Decides as follows:

THE FACTS

The applicant is a British citizen, born in 1957 and resident in Surrey. He is represented before the Commission by Mr. Gilbert Blades a solicitor practising in Lincoln. The facts as submitted by the applicant may be summarised as follows.

A. Particular circumstances of the case.

In 1993 the applicant was a sergeant in the Royal Air Force of the United Kingdom stationed in Germany. In August 1993 he was charged by the air force authorities with using threatening, abusive, insulting or provocative behaviour likely to cause a disturbance contrary to section 43A(b) of the Air Force Act 1955 and with doing an act tending and intended to pervert the course of justice contrary to section 70(1) of the Air Force Act 1955.

The Convening Officer, by order dated 24 August 1993, convened a district court-martial to try the applicant on the charges.

The court-martial took place at Bruggen, Germany on 25-27 August

1993 and the applicant was found guilty of both offences. The court-martial sentenced the applicant to dismissal with disgrace from the air force, to be detained for nine months and to be reduced to the ranks.

On 15 October 1993 the applicant presented a petition to the Confirming officer. However, by letter dated 11 November 1993 the applicant's representative was notified that the conviction and sentence had been confirmed by the Confirming Officer.

The applicant then presented an appeal petition to the Defence Council. However, by letter dated 7 February 1994 the applicant's representative was notified of the decision, taken by the Air Force Board, to reject this petition.

On 10 May 1994 the applicant was refused, by a single judge of the Courts-Martial Appeal Court, leave to appeal against conviction to that court.

The applicant's subsequent renewal of that application to the full Courts-Martial Appeal Court was rejected on 14 July 1994.

B. Relevant domestic law and practice.

The Commission refers to the "Relevant domestic law and practice" contained in its report on the Coyne application (No. 25942/94, Comm. Report 25.6.96, unpublished)

COMPLAINTS

The applicant complains under Article 6 of the Convention that he was denied a fair and public hearing by an independent and impartial tribunal established by law.

PROCEEDINGS BEFORE THE COMMISSION

The application was introduced on 23 June 1994 and was registered on 11 July 1994.

On 7 December 1994 the Commission decided to communicate and adjourn the application.

On 2 July 1996 the Commission decided to request the Government's observations. In their letter received on 7 November 1996 the Government stated that they have no observations on the admissibility of the application.

THE LAW

The applicant complains under Article 6 (Art. 6) of the Convention that he was denied a fair and public hearing by an independent and impartial tribunal established by law. The Government have no observations on the admissibility of the applicant's complaints.

The Commission considers that the application raises complex and serious issues under Article 6 (Art. 6) of the Convention which require determination on the merits. It follows that these complaints of the applicant cannot be dismissed as manifestly ill-founded within the meaning of Article 27 para. 2 (Art. 27-2) of the Convention. No other ground for declaring them inadmissible has been established.

For these reasons, the Commission, unanimously,

DECLARES THE APPLICATION ADMISSIBLE, without prejudging the merits.

M.F. BUQUICCHIO
Secretary
to the First Chamber

J. LIDDY
President
of the First Chamber